IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1741 OF 2007

Dr.Ajit A. Shinde ....Petitioner
V/s.
Dr.Nagesh P. Naik and others ....Respondents

Mr.A.Y. Sakhare, Senior Counsel i/b M/s.YKS Legal for the Petitioner.

Mr.Manoj Kadam for Respondent No.1.

Mr.A.A. Kumbhakoni, Associate Advocate General with Mr.V.P. Malwankar, AGP for Respondent Nos.2 to 4.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.
DATED : 3RD APRIL, 2007.

P.C. :

1. The Petitioner approached this Court, aggrieved by the order of the Maharashtra Administrative Tribunal (MAT) dated 21.2.2007. The Petitioner is aggrieved by the following paragraph of the order, which reads as under :-

> "Since the period of appointment of Respondent No.6 has already expired, the question of quashing that order does not now arise. However, we would direct that the Government should refrain from reappointing

him or any other person not qualified and hence not eligible to be appointed as per the qualification prescribed by the Medical Council of India."

2. The learned Senior Counsel for the Petitioner has drawn our attention to an affidavit filed by the Government before MAT, more specifically to paragraph 4 to point out, the circumstances, under which the appointment came to be made. Mr.Chintamani S. Chavan, Chief Administrative Officer has filed an affidavit. From the affidavit, it appears that four eligible Associate Professors who are available, have already been appointed as ad-hoc Professors and there are no other regular Associate Professors other than these four Associate Professors. It is pointed out from the affidavit that out of the 14 posts, there are only three persons holding regular posts of Professors, seven persons have been appointed on ad-hoc basis, four persons were appointed on contract basis and there are still three vacancies.

3. The question is whether the impugned order of the MAT suffers from any error of law apparent on the basis of the record. In the matter of appointment on contract basis, the same is covered by the G.R. dated

30.5.2003. However, the G.R. provides that the said appointment on contract can be made from amongst the candidates who have qualifications and experience. In other words, the G.R. provides that even on contract basis the candidates appointed must possess the qualifications and experience. Considering that we are of the opinion that the impugned order does not suffer from any error of law apparent on the face of record.

4. If however in the absence of Professors, there be threat of derecognition, it is for the Government to take such steps including by amending the G.R., if in law it is so permissible. However, once there is G.R., the Government will have to follow the same and cannot make any appointment either on ad-hoc basis or on contract basis to the post of Professors contrary to the rules and the G.R.

5. Our attention is invited to the fact that the matters are pending before the M.P.S.C. since 2005. On account of non-appointment of the Professors, many of the institutions are threatened of de-recognition. The students eligible should not suffer on account of non-appointment of the Professors, if there be candidates. Considering the above we therefore direct

the M.P.S.C. to expedite the process by filling in all the vacancies as early as possible.

6. With the above observations, the Writ Petition is accordingly disposed of.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)